109TH CONGRESS 2D SESSION

H. R. 5638

To amend the Internal Revenue Code of 1986 to increase the unified credit against the estate tax to an exclusion equivalent of \$5,000,000 and to repeal the sunset provision for the estate and generation-skipping taxes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

June 19, 2006

Mr. Thomas (for himself, Mr. Hulshof, and Mr. Cramer) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to increase the unified credit against the estate tax to an exclusion equivalent of \$5,000,000 and to repeal the sunset provision for the estate and generation-skipping taxes, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "Permanent Estate Tax
- 5 Relief Act of 2006".

1	SEC. 2. REFORM AND EXTENSION OF ESTATE TAX AFTER
2	2009.
3	(a) Restoration of Unified Credit Against
4	GIFT TAX.—Paragraph (1) of section 2505(a) of the In-
5	ternal Revenue Code of 1986 (relating to general rule for
6	unified credit against gift tax), after the application of
7	subsection (g), is amended by striking "(determined as if
8	the applicable exclusion amount were \$1,000,000)".
9	(b) Exclusion Equivalent of Unified Credit
10	EQUAL TO \$5,000,000.—Subsection (c) of section 2010
11	of such Code (relating to unified credit against estate tax)
12	is amended to read as follows:
13	"(c) Applicable Credit Amount.—
14	"(1) In general.—For purposes of this sec-
15	tion, the applicable credit amount is the amount of
16	the tentative tax which would be determined under
17	the rate schedule set forth in section 2001(c) if the
18	amount with respect to which such tentative tax is
19	to be computed were the applicable exclusion
20	amount.
21	"(2) APPLICABLE EXCLUSION AMOUNT.—For
22	purposes of this subsection, the applicable exclusion
23	amount is \$5,000,000.".
24	(c) Rate Schedule.—

1 (1) In General.—Subsection (c) of section 2 2001 of such Code (relating to rate schedule) is amended to read as follows: 3 "(c) Rate Schedule.—The tentative tax is equal 4 5 to the sum of— 6 "(1) the product of the rate specified in section 7 1(h)(1)(C) in effect on the date of the decedent's 8 death multiplied by so much of the sum described in 9 subsection (b)(1) as does not exceed \$25,000,000, 10 and 11 "(2) the product of twice the rate specified in 12 section 1(h)(1)(C) in effect on the date of the dece-13 dent's death multiplied by so much of the sum de-14 scribed in subsection (b)(1) as equals or exceeds 15 \$25,000,000.". 16 (2)AMENDMENT.—Section Conforming 17 2502(a) of such Code (relating computation of tax), 18 after the application of subsection (g), is amended 19 by adding at the end the following flush sentence: 20 "In computing the tentative tax under section 2001(c) for 21 purposes of this subsection, 'the last day of the calendar year in which the gift was made' shall be substituted for

'the date of the decedent's death' each place it appears

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in such section.".

1	(d) Modifications of Estate and Gift Taxes to
2	REFLECT DIFFERENCES IN UNIFIED CREDIT RESULTING
3	From Different Tax Rates.—
4	(1) Estate Tax.—
5	(A) In General.—Section 2001(b)(2) of
6	such Code (relating to computation of tax) is
7	amended by striking "if the provisions of sub-
8	section (c) (as in effect at the decedent's
9	death)" and inserting "if the modifications de-
10	scribed in subsection (g)".
11	(B) Modifications.—Section 2001 of
12	such Code is amended by adding at the end the
13	following new subsection:
14	"(g) Modifications to Gift Tax Payable to Re-
15	FLECT DIFFERENT TAX RATES.—For purposes of apply-
16	ing subsection (b)(2) with respect to 1 or more gifts, the
17	rates of tax under subsection (c) in effect at the decedent's
18	death shall, in lieu of the rates of tax in effect at the time
19	of such gifts, be used both to compute—
20	"(1) the tax imposed by chapter 12 with respect
21	to such gifts, and
22	"(2) the credit allowed against such tax under
23	section 2505, including in computing—
24	"(A) the applicable credit amount under
25	section $2505(a)(1)$, and

1	"(B) the sum of the amounts allowed as a
2	credit for all preceding periods under section
3	2505(a)(2).
4	For purposes of paragraph (2)(A), the applicable
5	credit amount for any calendar year before 1998 is
6	the amount which would be determined under sec-
7	tion 2010(c) if the applicable exclusion amount were
8	the dollar amount under section 6018(a)(1) for such
9	year.".
10	(2) Gift tax.—Section 2505(a) of such Code
11	(relating to unified credit against gift tax), after the
12	application of subsection (g), is amended by adding
13	at the end the following new flush sentence:
14	"For purposes of applying paragraph (2) for any calendar
15	year, the rates of tax used in computing the tax under
16	section 2502(a)(2) for such calendar year shall, in lieu of
17	the rates of tax in effect for preceding calendar periods,
18	be used in determining the amounts allowable as a credit
19	under this section for all preceding calendar periods.".
20	(e) Repeal of Deduction for State Death
21	Taxes.—
22	(1) In General.—Section 2058 of such Code
23	(relating to State death taxes) is amended by adding
24	at the end the following:

1	"(c) Termination.—This section shall not apply to
2	the estates of decedents dying after December 31, 2009.".
3	(2) Conforming Amendment.—Section
4	2106(a)(4) of such Code is amended by adding at
5	the end the following new sentence: "This paragraph
6	shall not apply to the estates of decedents dying
7	after December 31, 2009.".
8	(f) Effective Date.—The amendments made by
9	this section shall apply to estates of decedents dying, gen-
10	eration-skipping transfers, and gifts made, after Decem-
11	ber 31, 2009.
12	(g) Additional Modifications to Estate Tax.—
13	(1) In general.—The following provisions of
14	the Economic Growth and Tax Relief Reconciliation
15	Act of 2001, and the amendments made by such
16	provisions, are hereby repealed:
17	(A) Subtitles A and E of title V.
18	(B) Subsection (d), and so much of sub-
19	section (f)(3) as relates to subsection (d), of
20	section 511.
21	(C) Paragraph (2) of subsection (b), and
22	paragraph (2) of subsection (e), of section 521.
23	The Internal Revenue Code of 1986 shall be applied
24	as if such provisions and amendments had never
25	been enacted.

1	(2) Sunset not to apply to title v of
2	EGTRRA.—Section 901 of the Economic Growth and
3	Tax Relief Reconciliation Act of 2001 shall not
4	apply to title V of such Act.
5	(3) Repeal of Deadwood.—
6	(A) Sections 2011, 2057, and 2604 of the
7	Internal Revenue Code of 1986 are hereby re-
8	pealed.
9	(B) The table of sections for part II of
10	subchapter A of chapter 11 of such Code is
11	amended by striking the item relating to section
12	2011.
13	(C) The table of sections for part IV of
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14	subchapter A of chapter 11 of such Code is
	subchapter A of chapter 11 of such Code is amended by striking the item relating to section
14	
14 15	amended by striking the item relating to section
14 15 16	amended by striking the item relating to section 2057.
14151617	amended by striking the item relating to section 2057. (D) The table of sections for subchapter A
14 15 16 17 18	amended by striking the item relating to section 2057. (D) The table of sections for subchapter A of chapter 13 of such Code is amended by strik-
14 15 16 17 18 19	amended by striking the item relating to section 2057. (D) The table of sections for subchapter A of chapter 13 of such Code is amended by striking the item relating to section 2604.
14 15 16 17 18 19 20	amended by striking the item relating to section 2057. (D) The table of sections for subchapter A of chapter 13 of such Code is amended by striking the item relating to section 2604. SEC. 3. UNIFIED CREDIT INCREASED BY UNUSED UNIFIED
14 15 16 17 18 19 20 21	amended by striking the item relating to section 2057. (D) The table of sections for subchapter A of chapter 13 of such Code is amended by striking the item relating to section 2604. SEC. 3. UNIFIED CREDIT INCREASED BY UNUSED UNIFIED CREDIT OF DECEASED SPOUSE.

1	by striking paragraph (2) and inserting the following new
2	paragraphs:
3	"(2) Applicable exclusion amount.—For
4	purposes of this subsection, the applicable exclusion
5	amount is the sum of—
6	"(A) the basic exclusion amount, and
7	"(B) in the case of a surviving spouse, the
8	aggregate deceased spousal unused exclusion
9	amount.
10	"(3) Basic exclusion amount.—For pur-
11	poses of this subsection, the basic exclusion amount
12	is \$5,000,000.
13	"(4) Aggregate deceased spousal unused
14	EXCLUSION AMOUNT.—For purposes of this sub-
15	section, the term 'aggregate deceased spousal unused
16	exclusion amount' means the lesser of—
17	"(A) the basic exclusion amount, or
18	"(B) the sum of the deceased spousal un-
19	used exclusion amounts of the surviving spouse.
20	"(5) Deceased spousal unused exclusion
21	AMOUNT.—For purposes of this subsection, the term
22	'deceased spousal unused exclusion amount' means,
23	with respect to the surviving spouse of any deceased
24	spouse dying after December 31, 2009, the excess (if
25	any) of—

1 "(A) the applicable exclusion amount of 2 the deceased spouse, over

"(B) the amount with respect to which the tentative tax is determined under section 2001(b)(1) on the estate of such deceased spouse.

"(6) Special rules.—

"(A) ELECTION REQUIRED.—A deceased spousal unused exclusion amount may not be taken into account by a surviving spouse under paragraph (5) unless the executor of the estate of the deceased spouse files an estate tax return on which such amount is computed and makes an election on such return that such amount may be so taken into account. Such election, once made, shall be irrevocable. No election may be made under this subparagraph if such return is filed after the time prescribed by law (including extensions) for filing such return.

"(B) Examination of Prior Returns After Expiration of Period of Limitations With Respect to Deceased Spousal Unused Exclusion Amount.—Notwithstanding any period of limitation in section 6501, after the time has expired under section 6501 within

- which a tax may be assessed under chapter 11
 or 12 with respect to a deceased spousal unused
 exclusion amount, the Secretary may examine a
 return of the deceased spouse to make determinations with respect to such amount for purposes of carrying out this subsection.
 - "(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this subsection.".

10 (b) Conforming Amendments.—

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- (1) Paragraph (1) of section 2505(a) of such Code, as amended by section 2, is amended to read as follows:
- "(1) the applicable credit amount under section 2010(c) which would apply if the donor died as of the end of the calendar year, reduced by".
- 17 (2) Section 6018(a)(1) of such Code, after the 18 application of section 2(g), is amended by striking 19 "applicable exclusion amount" and inserting "basic 20 exclusion amount".
- 21 (c) Effective Date.—The amendments made by 22 this section shall apply to estates of decedents dying, gen-23 eration-skipping transfers, and gifts made, after Decem-24 ber 31, 2009.

1 SEC. 4. DEDUCTION FOR QUALIFIED TIMBER GAIN.

- 2 (a) IN GENERAL.—Part I of subchapter P of chapter
- 3 1 of the Internal Revenue Code of 1986 is amended by
- 4 adding at the end the following new section:
- 5 "SEC. 1203. DEDUCTION FOR QUALIFIED TIMBER GAIN.
- 6 "(a) IN GENERAL.—In the case of a taxpayer which
- 7 elects the application of this section for a taxable year,
- 8 there shall be allowed a deduction against gross income
- 9 equal to 60 percent of the lesser of—
- 10 "(1) the taxpayer's qualified timber gain for
- such year, or
- 12 "(2) the taxpayer's net capital gain for such
- 13 year.
- 14 "(b) Qualified Timber Gain.—For purposes of
- 15 this section, the term 'qualified timber gain' means, with
- 16 respect to any taxpayer for any taxable year, the excess
- 17 (if any) of—
- 18 "(1) the sum of the taxpayer's gains described
- in subsections (a) and (b) of section 631 for such
- year, over
- 21 "(2) the sum of the taxpayer's losses described
- in such subsections for such year.
- 23 "(c) Special Rules for Pass-Thru Entities.—
- 24 In the case of any qualified timber gain of a pass-thru
- 25 entity (as defined in section 1(h)(10))—

1	"(1) the election under this section shall be
2	made separately by each taxpayer subject to tax or
3	such gain, and
4	"(2) the Secretary may prescribe such regula-
5	tions as are appropriate to apply this section to such
6	gain.
7	"(d) Termination.—No disposition of timber after
8	December 31, 2008, shall be taken into account under
9	subsection (b).".
10	(b) Coordination With Maximum Capital Gains
11	Rates.—
12	(1) Taxpayers other than corpora-
13	TIONS.—Paragraph (2) of section 1(h) of such Code
14	is amended to read as follows:
15	"(2) REDUCTION OF NET CAPITAL GAIN.—For
16	purposes of this subsection, the net capital gain for
17	any taxable year shall be reduced (but not below
18	zero) by the sum of—
19	"(A) the amount which the taxpayer takes
20	into account as investment income under sec-
21	tion $163(d)(4)(B)(iii)$, and
22	"(B) in the case of a taxable year with re-
23	spect to which an election is in effect under sec-
24	tion 1203, the lesser of—

1	"(i) the amount described in para-
2	graph (1) of section 1203(a), or
3	"(ii) the amount described in para-
4	graph (2) of such section.".
5	(2) Corporations.—Section 1201 of such
6	Code is amended by redesignating subsection (b) as
7	subsection (c) and inserting after subsection (a) the
8	following new subsection:
9	"(b) Qualified Timber Gain not Taken Into Ac-
10	COUNT.—For purposes of this section, in the case of a
11	corporation with respect to which an election is in effect
12	under section 1203, the net capital gain for any taxable
13	year shall be reduced (but not below zero) by the corpora-
14	tion's qualified timber gain (as defined in section
15	1203(b)).".
16	(e) Deduction Allowed Whether or not Indi-
17	VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)
18	of section 62 of such Code is amended by inserting before
19	the last sentence the following new paragraph:
20	"(21) Qualified timber gains.—The deduc-
21	tion allowed by section 1203.".
22	(d) Deduction Allowed in Computing Ad-
23	JUSTED CURRENT EARNINGS.—Subparagraph (C) of sec-
24	tion 56(g)(4) of such Code is amended by adding at the

end the following new clause:

1	"(vii) Deduction for qualified
2	TIMBER GAIN.—Clause (i) shall not apply
3	to any deduction allowed under section
4	1203.".
5	(e) Deduction Allowed in Computing Taxable
6	INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Sub-
7	paragraph (C) of section 641(c)(2) of such Code is amend-
8	ed by inserting after clause (iii) the following new clause:
9	"(iv) The deduction allowed under
10	section 1203.".
11	(f) Conforming Amendments.—
12	(1) Subparagraph (B) of section 172(d)(2) of
13	such Code is amended to read as follows:
14	"(B) the exclusion under section 1202 and
15	the deduction under section 1203 shall not be
16	allowed.".
17	(2) Paragraph (4) of section 642(c) of such
18	Code is amended by striking the first sentence and
19	inserting the following: "To the extent that the
20	amount otherwise allowable as a deduction under
21	this subsection consists of gain described in section
22	1202(a) or qualified timber gain (as defined in sec-
23	tion 1203(b)), proper adjustment shall be made for
24	any exclusion allowable to the estate or trust under

1	section 1202 and for any deduction allowable to the
2	estate or trust under section 1203.".
3	(3) Paragraph (3) of section 643(a) of such
4	Code is amended by striking the last sentence and
5	inserting the following: "The exclusion under section
6	1202 and the deduction under section 1203 shall not
7	be taken into account.".
8	(4) Subparagraph (C) of section 643(a)(6) of
9	such Code is amended to read as follows:
10	"(C) Paragraph (3) shall not apply to a
11	foreign trust. In the case of such a trust—
12	"(i) there shall be included gains from
13	the sale or exchange of capital assets, re-
14	duced by losses from such sales or ex-
15	changes to the extent such losses do not
16	exceed gains from such sales or exchanges,
17	and
18	"(ii) the deduction under section 1203
19	shall not be taken into account.".
20	(5) Paragraph (4) of section 691(c) of such
21	Code is amended by inserting "1203," after
22	"1202,".
23	(6) Paragraph (2) of section 871(a) of such
24	Code is amended by striking "section 1202" and in-
25	serting "sections 1202 and 1203"

1 (7) The table of sections for part I of sub-2 chapter P of chapter 1 of such Code is amended by 3 adding at the end the following new item:

"Sec. 1203. Deduction for qualified timber gain.".

4 (g) Effective Date.—

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(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) Taxable years which includes the date of the enactment of this Act, for purposes of the Internal Revenue Code of 1986, the taxpayer's qualified timber gain shall not exceed the excess that would be described in section 1203(b) of such Code, as added by this section, if only dispositions of timber after such date were taken into account.

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